IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

WP(C).No. 36402 of 2004(H)

PETITIONER:

BHOOPATHI STEELS PVT. LTD.,
NEW INDUSTRIAL DEDVELOPMENT AREA,
KANJIKODE, PALAKKAD-678 621,
REP. BY ITS MANAGING DIRECTOR,
B.RADHAKRISHNAN, S/O.M.K.BALAN NAMBIAR.

BY ADV. SRI.T.M.SREEDHARAN
SRI.DEEPAK JOY.K.

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVAN,
PATTOM PALACE, TRIVANDRUM,
REP. BY ITS SECRETARY.

2. THE ACCOUNTS OFFICER,
KERALA STATE ELECTRICITY BOARD,
VYDYHUTHI BHAVAN, PATTOM PALACE,
TRIVANDRUM.

3. THE DEPUTY CHIEF ENEGINEER, APTS (HQ),
KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVAN, PATTOM PALACE, TRIVANDRUM.

BY ADV. SRI.P.SANTHALINGAM, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.36402/2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DATED 2.12.04 VIDE NO.HTB/17/3803.

EXT. P2: COPY OF INV. NO.17/3803/UAL/APTS/PENAL DATED 2.12.04 FOR RS.97,200/- ISSUED BY THE SPECIAL OFFICER.

EXT. P3: COPY OF THE LETTER DATED 13.12.04 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXT. P4: COPY OF THE INSPECTION REPORT DATED 19.10.04 ISSUED BY THE RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

JP

KURIAN JOSEPH, J.

W.P(C) No. 36402 of 2004

Dated this the 23rd day of November, 2007

JUDGMENT

The writ petition is filed mainly with the following prayers:-

> (i) Call for the records of the case leading to Ext.P1 and P2 additional demands issued by the 2nd respondent and quash the same by the issue of a writ of certiorari or other appropriate writ, order or direction.
>
> (ii) Issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents to refrain from recovering any amount from the petitioner pursuant to Ext.P1 and P2 pending disposal of the writ petition.
>
> (iii) Stay the operation of Ext.P1 and P2 additional demands, pending disposal of the writ petition.

As far as penalty for unauthorised connected load is concerned, it is now settled law in view of the Bench decision of this Court in W.A.No.1231/2003 that the penalty has to be limited to the fixed charge portion. It is held that there shall not be any penalty by way of proportionate energy charges. The impugned demands are quashed making it clear that the liability of the petitioner shall only be for the

penalty for fixed charge portion. The revised demand shall be issued to the petitioner and the amounts already remitted by the petitioner shall be adjusted.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.

KURIAN JOSEPH, J.

W.P(C).No. 36402 of 2004

JUDGMENT

23rd November, 2007